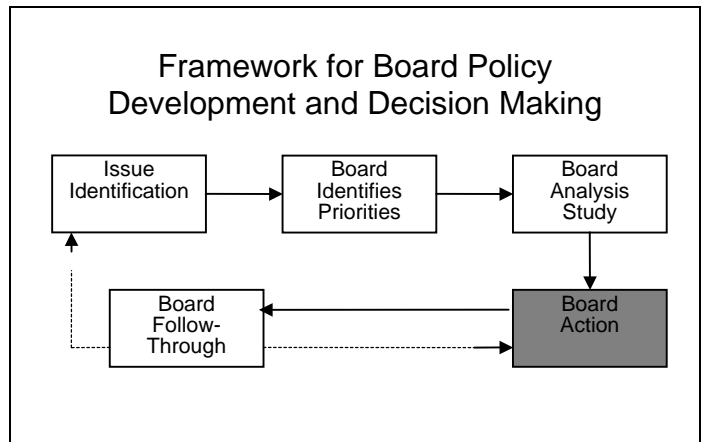


# Iowa State Board of Education

## Executive Summary

February 7, 2007



**Agenda Item:** Chapter 120 rules, Early ACCESS Integrated System of Early Intervention Services (ADOPTION)

**Iowa Goal:** 2. All K-12 students will achieve at high levels, prepared for success beyond high school.

**Equity Impact Statement:** Iowa is a “birth mandate” state, providing special education services to all eligible children from birth to age three years. The Iowa Department of Education is the lead agency for the coordination of these services.

**Presenter:** None

**Attachments:** 1

**Recommendation:** It is recommended that the State Board adopt an amendment to this chapter.

**Background:** The new federal regulations for the Individuals with Disabilities Education Act sharpen the definition of parent. This amendment conforms to that new definition. In addition, stakeholders and parents needed clarification as to when parental consent to share records of an eligible child is and is not required.

(This amendment received no public comment and no questions from the Administrative Rules Review Committee.)

EDUCATION DEPARTMENT[281]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education amends Chapter 120, “Early ACCESS Integrated System of Early Intervention Services,” Iowa Administrative Code.

The amendments clarify the definition of “parent” and clarify that a child’s education records, as defined by the federal regulations that expand on the Family Educational Rights and Privacy Act in 34 CFR Part 99, may be transmitted between appropriate agencies without parental consent.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the January 3, 2007 Iowa Administrative Bulletin as **ARC 5632B**. No public hearing was held; no written or oral comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 256B and 20 U.S.C. Sections 1400–ff.

These amendments shall become effective April 4, 2007.

The following amendments are adopted.

ITEM 1. Amend rule **281—120.4(34CFR303)** by rescinding the definition of “parent” and adopting the following **new** definition in lieu thereof:

“Parent” means (1) a biological or adoptive parent of a child; (2) a foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent; (3) a guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child, but not the state if the child is a ward of the state; (4) a person acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom a child lives, or a person who is legally responsible for the child’s welfare; or (5) a surrogate parent who has been appointed in accordance with 34 CFR 300.519 or 20 U.S.C. 1439(a)(5).

The following criteria shall be used to determine whether a party qualifies as a “parent”:

a. Except as provided in paragraph “b,” the biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified to act as a parent under this chapter, must be presumed to be the parent for purposes of these rules unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

b. If a judicial decree or order identifies a specific person or persons under (1) through (4) of the definition of “parent” to act as the parent of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent for purposes of this definition.

c. A public or private agency involved in the education or care of a child shall not serve as a child’s parent.

d. An employee or contractor with any public or private agency involved in the education or care of a child shall not serve as a parent in that employee or contractor’s official capacity.

ITEM 2. Amend rule 281—120.59(34CFR303) as follows:

**281—120.59(34CFR303) Transmittal of records.** In order to facilitate the child’s smooth transition to preschool or other appropriate services and to ensure continuity of services for the child, the applicable signatory agency or community partner must obtain written parental consent prior to transmitting any records of the child to the local education agency or other applicable agency or program, unless the records are education records and the disclosure is authorized without parental consent under 34 CFR Part 99. Records that may be transmitted include:

1. Evaluation and assessment information.
2. Copies of IFSPs that have been developed and implemented. [34 CFR 303.344(h)(2)(iii)]